Before the
Federal Communications Commission
Washington, D.C. 20554

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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF SECRETARY

In the Matter of

Policies and Rules Concerning	)	**MM Docket No. 93-48**
Children's Television Programming	)	
	)	
Revision of Programming Policies	)	
for Television Broadcast Stations	)	

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Comments of the
Office of Communication
United Church of Christ

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Summary

America's children are the bedrock of the nation's future. Therefore, those who use the public's airwaves have a duty to provide the future adults of our society with high quality educational and informational programming. The effect of the Commission's proposed program sponsorship rule will be to substantially undermine any gains that might be otherwise attained by means of quantitative standards.

In the local market, program sponsorship arrangements will have the effect of -

- rendering proposed quantitative standards totally ineffective (Section II,B),

- undermining rather than building the audience for children's programming (Section, II,D),

-not minimizing the cost of producing or distributing children's programming (Section, II, C),

- exacerbating the present imbalance between public and commercial broadcasters such that commercial stations will be able to continue to shun their duty to serve the public interest (Section II, A & D).

The legislative history of the Children's Television Act clearly indicates Congress's displeasure with the record of commercial broadcasters in the area of educational children's programming. Instead of adopting a program sponsorship policy that will further add to the imbalance between public and commercial broadcasters, the Commission should seek to reverse this trend and encourage

commercial licensees to develop expertise in an area where it is currently lacking. The Commission should consider the fact that commercial stations are more widely viewed than public channels and have profited the most from use of the public's airwaves.

In the event that a program sponsorship policy is adopted, despite public interest opposition, the Commission must seek to prevent stations from making program choices based solely upon economic considerations. The Commission's *1991 Report and Order* requires licensee's to be able to demonstrate that children's program selections are in response to an assessment of the needs of the local child audience. The Office of Communication, therefore, urges the Commission to clarify exactly how sponsorship arrangements are to comply with the obligation to perform needs assessments and maintain records for the public file.

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I. Introduction.

The Office of Communication of the United Church of Christ ("OC/UCC") respectfully submits the following comments in response to the Commission's Notice of Proposed Rulemaking (FCC 95-143, released April 7, 1995 ("NPRM") concerning children's television programming.

The Office of Communication previously submitted comments in response to the 1990 Notice of Proposed Rulemaking and reply comments in connection with the Commission's en banc hearing. OC/UCC has consistently supported educational children's television programming over the years and has worked to encourage Congress to pass the Children's Television Act of 1990[1] ("CTA" or

1. 47 U.S.C. Sections 303a, 303b, 394.

"Act"). In an effort to curb media violence, OC/UCC has actively supported the adoption of V-Chip safeguards in pending telecommunications legislation (i.e. S. 652 and H.R.1555).

The Office fully supports the joint comments that it simultaneously submits today with the Center for Media Education et al.[2] and incorporates them herein by reference. The following additional comments are intended to oppose the adoption of a program sponsorship rule. Such a rule can only serve to detract from the effectiveness of the quantitative standards under consideration.

II. Program Sponsorship will Lead to the Slow Decline of Children's Television.

Some have argued that it is important that there be children's television and not children's television on every station. This argument overlooks the long range effect of placing the burden of implementing the CTA on public broadcasters and exempting commercial stations from their fiduciary responsibility as public trustees.

The following sections show that program sponsorship arrangements will result in more of the status quo. Commercial stations will continue to have the least expertise and demonstrate the least amount of interest in children's

2. Comments of *Center for Media Education* et al., submitted October 16, 1995

television programming. This is completely at odds with Congress' goal to stem the amount of violence on television and to use the medium for its educational value.

OC/UCC urges the Commission to abandon its program sponsorship proposal and require commercial stations - the most profitable and widely-viewed medium - to fulfill their obligation to serve children, the bedrock of America's future.

A. Program Sponsorship will Exacerbate the Public Interest Imbalance between Commercial and Public Broadcasters.

Commercial broadcasters presently account for the least amount of children's television programming. Congress noted the historic imbalance between commercial and public broadcasters when it said,

> *Today, public television is the primary source of educational children's programming in the United States, broadcasting over 1,200 hours of children's educational programming for home viewing. However, our children watch more than just public television. Commercial television does provide meritorious programming designed to teach pro-social behavior to children, thus demonstrating that it is possible for commercial broadcasters to provide this fare. However, when viewed as a whole, there is disturbingly little educational informational programming on commercial television.*

Children's Television Act of 1989, Senate Committee, Science and Transportation, S. Rep. No. 227, 101st Cong., 1st Sess. (1989) ("Senate Report"), at 7 (emphasis added).

It was certainly the goal of Congress in enacting the CTA that children's programming be widely available on popular commercial stations. In order for that to happen commercial stations must develop experience in assessing and responding to the needs of the child audience. Program sponsorship, as proposed by the Commission, will not advance this goal.

Public television presently airs more than 35 hours of children's educational programming per week compared to 3.5 for commercial broadcasters - a ten-fold difference.[3] The NPRM, at para. 79, correctly notes that program sponsorship arrangements will encourage, "entities with more expertise in and commitment to children's education programming to take responsibility for the production and distribution of [children's] programming." But this will only lead to public stations developing more expertise in a field that they already dominate while commercial broadcasters, whose viewing audience is larger, continue to avoid their public interest responsibilities.

Commercial stations presently account for the overwhelming majority of violence broadcast over the air, including cartoons and feature-length programming. Congress sought to stem this when it enacted the CTA.

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3. The Public Broadcast Service makes available purely educational children's programming to its affiliates 11 hours a day Monday through Friday during the hours of 7:00 am and 6:00 pm. Affiliate stations air such programming seven days a week 5 to 7 hours each day. The accuracy of NAB's estimates on the amount of children's programming aired by commercial broadcasters has been questioned. " NPRM para. 17.

Program sponsorship arrangements will serve to undermine the CTA by preserving the status quo instead of changing it.

Notwithstanding Title I, Section 103(b) of the Act (47 U.S.C. 303(b)) permitting the Commission to consider programming sponsored or supported at other stations (see below B), it was clearly the intent of Congress to make children's television programming an industry-wide responsibility.[4]

B. The FCC is taking One Step Forward and Two Steps Backwards by Proposing a Program Sponsorship Rule in Conjunction with Minimum Core Requirements.

OC/UCC applauds the policies that the Commission has under consideration to correct broadcaster abuse of its current broad definition of children's programming.[5] However, we urge the Commission not to wait

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4. In sum, despite the FCC's contention that market forces should be sufficient to ensure that commercial stations provide educational and informational children's programming, the facts demonstrate otherwise. The same problem with children's programming that the FCC found in 1976 exist today. Market forces have not worked to increase the educational and informational programming available to children on commercial television.

Senate Report at 9.

5. "We found in our review of license renewal applications that some broadcasters were claiming as "education and informational" programs that had very little educational content". NPRM para. 28. In an attempt to address this problem the Commission is considering the adoption of either a safe harbor processing guideline or a programming standard. id. paras. 56 and 59. Both of these quantitative requirements prescribe minimum amounts of core programming specifically designed to meet children's educational and informational needs. id. para. 34.

another four years before it finds that quantitative guidelines mean nothing if broadcasters can circumvent them by means of program sponsorship.

In 1991, the Commission erred by affording broadcasters the discretion to air children's programming under regulations that broadly defined the term. Now, the Commission proposes to correct that error with appropriate safeguards. To permit program sponsorship to be used in conjunction with such safeguards, however, would be the same as taking one step forward and two steps back.

If a portion of the minimal core requirement is broadcast by each licensee (e.g. one hour a week),[6] the result will be less than the status quo. Presently, commercial broadcasters air an average of 3.5 hours per week of children's programming. The program sponsorship rule proposed by the Commission would permit commercial stations to air just 1 hour themselves and take credit for the remainder aired by public (host) stations.

The Commission's proposed program sponsorship rule is completely at

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6. ...each station would be required to air at least 1 hour of core educational and informational programming itself and that each be allowed to fulfill the remaining hours of the guideline or standard by sponsoring programming on other stations.
id. para. 78.

odds with Section 103 of the Act (Title I, 47 U.S. C 303).[7] In adopting a provision that would permit the Commission to take into consideration at the time of license renewal "special efforts" to sponsor or support programming on another station, Congress did not intend to take the nation backwards in terms of where we are today with commercial broadcasters. The "special efforts" referred to in subparagraph (b) (2) were intended to be in addition to the licensee's core programming requirements as they are defined by the Commission under subparagraph (a)(2). The phase "in addition to" at the beginning of Section 103 (b) means that the core programming requirements cannot be taken into consideration under both subparagraphs (a)(2) and (b)(2).

C. The Assertion that Program Sponsorship will Minimize the Cost or Programming is Unfounded.

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7. Section Title I, 103 of the Act (47 U.S.C. 303) says, "(a) After the standards required by section 102 [concerning advertising] are in effect, the Commission shall, in its review of any application for renewal of a television broadcast license, consider the extent to which the licensee-

(1) has complied with such standards; and
(2) has served the educational and informational needs of children through the licensee's overall programming including programming specifically designed to serve such needs.

(b) In addition to consideration of the licensee's programming as required under subsection (a) the Commission may consider -

(1) any special nonbroadcast efforts by the licensee which enhance the educational and informational value of such programming to children; and
(2) any special efforts by the licensee to produce or support programming broadcast by another station in the licensee's marketplace which is specifically designed to serve the educational and informational needs of children."

The NPRM incorrectly states that, "a program sponsorship system could also serve to minimize any economic cost of meeting a processing guideline or programming requirement." NPRM para 79.

The assumption underlying this assertion is that opportunity costs associated with children's programming are centered in the local market. In fact, few, if any, stations produce such programming exclusively for local market distribution. A few isolated stations produce programming for national syndication. However, this is inconsistent with marketplace patterns.

The opportunity costs of production and distribution are incurred in the national syndication market. Producers of children's programming, (e.g. the Children's Television Workshop, Alliance Media Production, Lancit Media) and various distributors compete to supply such programming to local stations. In the local market, stations incur acquisition costs associated with the purchase of nationally distributed programming. *Regardless whether a station acquires programming for broadcast on its own channel or another host station the cost of the program will be the same.*

The assertion that program sponsorship will minimize the cost of children's programming is inconsistent with marketplace realities.

D. A Policy that Favors Building Audience Identification with One Station has Flaws that will Ultimately Lead to the Downfall of

Children's Programming.

The NPRM, at para. 8, says that, "[t]he program sponsorship concept...would allow some stations to develop audience identification and programming schedules that build child audiences...". While it is possible that the concept could build audience identification with a host station, OC/UCC is concerned that program sponsorship could also lead to: 1) extreme imbalances between commercial and public stations in the local market (see II,A supra); 2) less desirable programming for general audiences on public (host) stations (e.g. news, public affairs, documentaries, feature length) that would be supplanted by children's programming; and 3) counter-programming on commercial stations that will undermine viewership for educational programming.

The following example illustrates how program sponsorship will detract from the goal of building audience for educational children's programming. Table I assumes that processing guidelines or programming standards are in effect in a local market with 5 stations. In the absence of program sponsorship, each station airs a minimum of 3 hours per week of educational children's programming. A total of 15 hours of programming would be evenly distributed between 5 stations.

Table I.
Quantitative Rules
Without Program Sponsorship

All Stations
3
3
3
3
3
15 hours

If permitted to engage in program sponsorship, one station (e.g. the public broadcaster) could carry 11 hours of children's programming per week while the remaining four stations carry 1 hour each (see Table II).

Table II.

Quantitative Rules
With Program Sponsorship

Sponsors	Host
1	11
1	
1	
1	
4 hours	11 hours

This undesirable result could be further aggravated by sponsoring stations airing sensationalized programming targeted toward the child audience. If a host station succeeds in building a child audience, sponsor stations will seek to win the audience back through counter-programming. *OC/UCC strongly believes that the profit motive will encourage sponsor (commercial) stations to seek proven revenue streams from popular non-educational programming (e.g. Mighty Power Rangers, Bugs Bunny etc.) at the expense of educational programming aired on the host station.* Ultimately, this will lead to the steady decline and downfall of educational children's programming.

OC/UCC urges the Commission to reframe from adopting a policy that will ultimately spell doom for programming designed to educate and inform children. Public broadcasters presently air a broad range of public interest programming - news analysis, documentaries, as well as educational children's programming. Commercial broadcasters have developed very little expertise in the area of educational children's programming. Instead of saddling more responsibility on public stations, the Commission should seek to reverse this trend and require commercial broadcasters - the most widely viewed and profitable stations - to fulfill their share of the responsibility of serving the public interest.

III. The Commission Must Clarify the Need for Sponsored Programming to be Responsive to the Needs of Children in the Local Community.

In its 1991 Report and Order[8], the Commission adopted a policy that requires each licensee to assess the needs of children in the local community and to air programs intended to meet their educational and informational needs. While the Commission declined to impose rigid assessment criteria, it stated that licensees must be able to demonstrate the methodology that they utilize.[9]

In the event that a program sponsor rule is adopted, despite public interest opposition, sponsor stations will be inclined to make program choices based solely on cost efficiencies. Given that the program will air on another channel, the sponsor station will be less inclined to care about its quality or its responsiveness to the needs of the local child audience. If the "educational and informational needs of children in [a licensee's] communit[y]" are to be served, it is essential that the Commission spell out exactly how it expects licensees to perform needs assessment and maintain records. id.

Educational children's programming, whether it is aired on sponsor or host stations, must meet the same standard of quality if the needs of children are to be met. OC/UCC, therefore, urges the Commission to clarify the needs

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8. Report and Order, 6 FCC Rad 2111 (1991).

9. Licensees will retain reasonable discretion to determine the manner in which thy assess the educational and informational needs of children in their communities, provided that they are able to demonstrate the methodology they have used.
id. para. 22.

assessment and record keeping obligation as it will apply under a program sponsorship rule. In particular, the Commission should clarify the need to demonstrate how programming choices are responsive to the needs of children residing in the local community.

IV. Conclusion

Program sponsorship arrangements can only serve to substantially diminish the effectiveness of the processing guidelines and program standards under consideration. For the reasons outlined above, OC/UCC urges the Commission to abandon its tentative conclusion to adopt such a policy.

Respectfully Submitted

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